

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

No. 1:10-cr-007

-v-

HONORABLE PAUL L. MALONEY

JOSEPH SCOTT GRAY,
Defendant.

ORDER

Before the court are four pretrial evidentiary motions. Defendant Gray is charged with two counts: (1) selling firearms without a federal firearms license and (2) selling a firearm to a convicted felon. The Government filed two motions to exclude evidence. The Government requests the court exclude evidence that Defendant obtained a peddler's license from the Van Buren County Clerk. (Dkt. No. 33.) The Government also requests the court exclude any reference by Defendant Gray that Outdoors 101 was an indoor flea market. (Dkt. No. 41.) Defendant Gray filed two motions. Defendant Gray requests the court exclude evidence that he previously held a federal firearms license. (Dkt. No. 48.) Defendant Gray also requests the court admit the entire criminal history of the Government's witness. (Dkt. No. 50.) At the final pretrial conference, the parties agreed to waive the required hearing on Defendant Gray's motion to admit and agreed to have the motion decided on the briefs.

As explained at the final pretrial conference, the court issues this order for the purpose of the trial preparation of the parties. The rationale for the decisions on each motion will be provided later. The court has reviewed each motion and answer:

IT IS HEREBY ORDERED:

1. The Government's motion to preclude evidence of Defendant's peddler's license (Dkt. No. 33) is **DENIED**. Should Defendant introduce such evidence, the jury will be given an instruction clarifying that having a peddler's license does not satisfy the requirement that a firearms dealer has a license issued under federal law for the purpose of the elements of Count 1.
2. The Government's motion to preclude evidence that 101 Outdoors was an indoor flea market (Dkt. No. 41) is **DENIED**. Should Defendant introduce such evidence, the jury will be given an instruction clarifying that selling guns at a flea market is not an exception to the requirement that a firearms dealer has a license issued under federal law for the purpose of the elements of Count 1.
3. Defendant's motion to exclude evidence of his prior federal firearms license (Dkt. No. 48) is **DENIED**.
4. Defendant's motion to admit evidence of a government witness's criminal history (Dkt. No. 50) is **GRANTED**. The Government does not oppose the request. (Dkt. No. 52.)

Date: September 13, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge